

FINAL DRAFT

2

Public Art Committee Manual



June 28, 2006

Public Art Committee Policies and Procedures Manual

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A. Introduction

The Public Art Committee Manual is an overview of the responsibilities, guidelines, and processes associated with the City of Milpitas Public Art Committee (PAC). Current and potential PAC members should read the Manual to become familiar with the policies and procedures that govern the PAC and its members and to become familiar with the processes to acquire public art.

B. Purpose & Mission Statement

Purpose

The purpose of the Public Art Committee is to encourage appreciation of the arts while enhancing the vitality and creative diversity of Milpitas through public art.

Mission

The Public Art Committee is dedicated to planned acquisition of art of exceptional quality and enduring value as outlined by the City of Milpitas Public Art Ordinance.

C. Role of the Public Art Committee

The Public Art Committee (PAC) was established on August 2, 2005, by City Ordinance. It is the Committee's responsibility to review and recommend the selection and placement of public artwork to the City Council and the Redevelopment Agency. The Committee provides feedback and recommendations to the City Council regarding the City of Milpitas Public Art Master Plan and the efforts to choose and place public art. The Committee shall also recommend to the City Council the adoption of program guidelines, policies and procedures to ensure consistent administration of the City of Milpitas Public Art Program.

The Committee shall be comprised of eleven (11) citizens who reside within the corporate limits of the City of Milpitas. Seven (7) members shall be members of the City of Milpitas Arts Commission, three (3) members shall be members of the Milpitas Alliance for the Arts or its successor non-profit organization, and one member shall be a citizen involved in the arts or a professional artist. A Staff Liaison and a Recording Secretary support the Committee.

The Public Art Committee shall:

- Jointly develop with input from the public and upon the review, advice and recommendation of the Public Art Committee a Public Art Program Master Plan. The Public Art Program Master Plan shall establish and guide the development and implementation of a Milpitas Public Art Policy.
- The Public Art Program Master Plan shall:

- Survey opportunities throughout the City and the Redevelopment Agency District for suitable sites and areas for the placement of Public Art;
- Provide advice as to the potential priority for Public Art installations;
- Advise as to potential Public Artwork aesthetic themes; and
- Advise as to the appropriate cataloguing and maintenance of Public Artwork.
- Aggressively seek to acquire additional funding for the Public Art Fund through donations, grants, sponsorships and all other appropriate fundraising means and opportunities;
- Prepare a semiannual report to the City Council updating the City Council on the Committee's fundraising efforts;
- Evaluate and recommend to the City Council changes in the Public Art Policy;
- Create, review and recommend the annual work plan to the City Council;
- Act as a artist selection panelist;
- Ensure community outreach and citizen participation in the public art program;
- Review and recommend proposed gifts and loans of art to the City;
- Review and recommend accessioning and deaccessioning of artworks from the art collection; and
- Periodically review and recommend changes to the Public Art Program guidelines, policies and procedures.

D. Role of the Committee Staff

The Committee staff is composed of two employees of the City of Milpitas, who act as a staff liaison to the Committee and a recording secretary who prepares and documents the Public Art Committee meetings. The Recreation Services Manager who reports to the City Manager heads the staff and a Recreation Services Supervisor administers the Public Art Program. Additional support will be provided by the Finance, Engineering and Public Works Departments.

The Committee staff shall:

- Prepare agendas and minutes for the Public Art Committee and subcommittees;
- Retain and make available public art information and research items for the PAC members;
- Make recommendations on the overall work objectives of the public art program, project administration, coordination with artists and city staff, strategic planning and community outreach;
- Monitor the overall development of the public art collection;
- Facilitate artist selection panels;
- Oversee a maintenance survey and schedule as appropriate of the public art collection;

- Present the PAC with the eligible Capital Improvement Program projects, funding appropriations and fund balance at the beginning of the fiscal year;
- Review and forward to the City Council the annual work plan presented by the PAC;
- Oversee all artists' contracts in association with the Public Art Program; and
- Assist the PAC in presenting and obtaining approvals on recommendations to the City Council.

E. Public Art Committee Bylaws

CITY OF MILPITAS

BYLAWS FOR PUBLIC ART COMMITTEE

I. Purpose & Mission

The City Council is committed to providing a livable and vibrant community for all of its citizens and visitors. Based on the community's suggestions received and subsequent City Council discussions and direction the City Council established a Public Art Committee, by Ordinance No. 271 (2005).

The Committee will meet bi-monthly, to provide feedback and recommendations to the City Council regarding the City of Milpitas Public Art Master Plan and the efforts to choose and place public art. The Committee shall be named: "City of Milpitas Public Art Committee" (hereafter "Committee").

II. Committee

a) **Membership:** The Committee shall be comprised of eleven (11) citizens who reside within the corporate limits of the City of Milpitas. Seven (7) members shall be members of the City of Milpitas Arts Commission, three (3) members shall be members of the Milpitas Alliance for the Arts or its successor non-profit organization, and one (1) member shall be a citizen involved in the arts or a professional artist. Committee members are volunteers and shall serve without compensation. All members of the Committee shall serve a three year term and may be eligible for re-appointment by the Mayor, should the Committee member end his/her term in good standing. Interested persons must submit a City of Milpitas citizen participation application (available online at www.ci.milpitas.ca.gov or at the City Clerk's Office) and proceed through the appointment process. The appointment process shall include recommendation for appointment by the Mayor, and final approval by the City Council. The City Council may, at its discretion, conduct interviews of proposed Committee members prior to appointment.

b) The Committee bears no oversight authority over any City Department, personnel, consultant, budget or commission. The Committee has no authority to bind the City to any contractual agreements and may not, without authority, make any decisions on behalf of the City. The Committee's recommendations shall be advisory to the City Council. Individual Committee members shall not be City employees, department heads, City consultants or act in any way as agents of the City. However, the City Manager, Director of Finance, Manager of Recreation Services, Director of Public Works or City Engineer or their designee may provide guidance and input to the Committee and may be consulted, from time-to-time, for additional information.

c) The Committee's primary task shall be to review and recommend the selection and placement of Public Artwork (as that term is defined in Ordinance No. 271). The Committee shall also recommend to the City Council the adoption of program guidelines, policies and procedures to ensure consistent administration of the City of Milpitas Public Art Program.

d) Members shall serve at the pleasure of the City Council and may be terminated at any time by the City Council.

e) Members are volunteers and shall serve without compensation or reimbursement for any personal expenses.

III. Committee and City staff procedures

a) The Committee's staff liaison shall be the Manager of Recreation Services, or their designee. The Committee shall receive staff support on an as-needed basis from the Manager of Recreation Services, and shall coordinate all requests for staff support through the Manager of Recreation Services or their designee.

1. The Committee shall have the following City resources available to it for its use, limited to the following:

- (a) Use of meeting rooms in City Hall, or other City facilities
- (b) Reasonable use of City equipment, (copy, fax, telephone)
- (c) Access to publicly available reports maintained by the City

b) The Committee shall meet on a regular, bi-monthly basis according to and under the California Brown Act's requirements. The Committee may hold public working sessions to solicit the input of the community and/or interested citizens or parties. Such working sessions shall be noticed and open meetings according to the California Brown Act's requirements.

IV. Rules of Procedure

- a) A quorum of the Committee shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Committee to hold a meeting. Any six members shall constitute a quorum for the transaction of business.
- b) All actions require a majority vote of the Committee members in attendance.
- c) These Bylaws, the Milpitas Open Government Ordinance and the Brown Act shall govern the operation of the Committee and its meetings.
- d) The Committee shall follow all applicable City fiscal and administrative policies and procedures.
- e) At the first regular meeting following the appointment of the Committee's members the Committee shall select a Chairperson and a Vice-Chairperson from among the Committee's members. The Chairperson and Vice-Chairperson shall serve for one year terms while on the Committee, unless extended to a second one year term by majority vote of the Committee. No Chairperson or Vice-Chairperson shall serve more than two consecutive one year terms. Elections shall take place the first meeting of each new calendar year.
- f) The Chairperson shall preside at all regular and special meetings and rule on all points of order and procedure during the meetings.
- g) The Vice-Chairperson shall assume all duties of the Chairperson in his/her absence. In the event the Chairperson and Vice Chairperson are both absent, an Acting Chairperson shall be appointed from the Committee for the meeting from those present.
- h) The staff appointed Secretary shall record the attendance and minutes of all meetings according to the Milpitas Open Government Ordinance, and shall notice all meetings of the Committee pursuant to the California Brown Act.
- i) The Committee may organize itself into Subcommittees to carry out tasks and responsibilities. Subcommittees composed of less than a quorum of the membership shall be subject to the California Brown Act and Milpitas Open Government Ordinance's requirements. Such Subcommittees shall be designated by the Committee with up to five (5) Committee members and at least one staff liaison.
- j) Individual Committee members may not speak for or on behalf of the entire Committee; the Chairperson shall act as the spokesperson for the entire Committee.

k) The Committee is an important function within the City of Milpitas, and as such, certain expectations are held by the City Council in making the appointment of individuals to the Committee. These expectations include the following:

1. Committee members will attend all regular meetings and special meetings as scheduled or as they arise. Committee members will communicate expected and unexpected absences to the Staff Liaison, or his/her designee, in a timely manner. Any member with three or more unexcused absences in a 12-month period shall be reported to City Council with a recommendation for removal from the Committee. Any member of the Committee may be removed from office by majority vote of the City Council at a regularly scheduled meeting.

2. Committee members will communicate any potential conflicts of interest on agenda items to the Secretary, or his/her designee, at least 48 hours in advance of the hearing to allow confirmation of a quorum.

3. Committee members will arrive on time to each meeting, fully participate, and remain in attendance until the end of each meeting.

4. Committee members will prepare themselves for each meeting by reading the agenda, reports and other materials and communicate any questions to the Secretary, Chair or Vice-Chair in advance of the hearing.

5. Committee members will avoid conflicts of interest between their personal and professional financial interests and those interests that may come before the Committee.

V. Adoption

a) This document, as adopted and amended by City Council resolution, shall serve as the Bylaws for the Commission.

PASSED AND ADOPTED by the Arts Commission on the 23rd day of January 2006.

PASSED AND ADOPTED by the Milpitas City Council on the 21st day of February 2006.

F. Location Selection Process

The Milpitas Public Art Committee (PAC) will identify proposed sites for public art based on the City's current master plans, capital improvement projects and community input to be included in the Public Art Master Plan. The PAC will update the Public Art Master Plan on an as needed basis and individual projects will be ranked in order of priority, based on development and community input. All public art shall be site specific and broadly defined as artwork placed in a public context – on the street, at gateways, in a park, on the exterior of a building, within the common spaces of a public building and so on.

Initiation of Public Art Projects

Public Art projects may either be linked to a capital improvement project, the City's current master plans or integrated into areas where no construction is planned within the City of Milpitas. Projects may be brought to the PAC by committee members, the Mayor, the City Council, City Department representative, a neighborhood group or community organization, staff or individual citizens. The Committee shall consider each project presented and shall present their recommendations to the City Council on an annual basis for consideration in the Public Art Master Plan.

Selection Criteria

The PAC will consider the following criteria when selecting locations to be included in the master plan:

- Locations where artwork can have the greatest positive impact on the site or surrounding community;
- Locations that are in early stages of design and will allow the artwork to be fully integrated with the project;
- Locations with pledges of strong community and/or private partnership;
- Locations that are widespread in neighborhoods throughout the City;
- Locations that do not have serious maintenance or security issues;
- Locations where the artwork can be properly installed with patron safety in mind;
- Locations where site design including landscaping, drainage, grading are considered;
- Locations that do not have adverse environmental impacts such as noise, sound and light;
- Locations that are publicly accessible particularly for the handicapped;
- Locations that do not impact adjacent property owners views and
- Locations that do not impact the City's operational functions.

G. Artist Selection Panel and Procedures

The Artist Selection Panel shall be comprised of the members of the Public Art Committee (PAC). There are three main ways in which artists may be selected for individual projects:

- **Open Competition** – Inviting artists/craftspeople to submit qualifications.
- **Limited Competition** – Compiling a selected short list from which a limited number of artists/craftspeople can be invited to submit proposals.
- **Direct Invitation** – Requesting an artist to propose work for a site, participate in the design process, or act as lead artist.

In all cases the PAC must provide the artists with a project brief which shall include the aims and objectives of the project, context or history, description of the artists role, site specifics, timetable, budget, permit and foundation requirements, community participation, maintenance & durability requirements, and criteria and methods for selection.

The PAC will review applications submitted by artists. They will select the artists from which they want specific project proposals and will recommend to the City Council the project they have selected. Selection shall be based on the following criteria:

- The artwork is thought provoking, memorable or enduring and shall reflect the diverse social, cultural, or historical values of the City.
- The artwork is appropriate in terms of scale, form, content and the environment.
- The artwork is durable relative to theft, vandalism, and the environment.
- The artwork can be displayed on City property under the Federal and State constitutions.
- The artwork meets the accepted standards of appropriateness.

Additional members may be added to the artist selection panel for individual projects. As an example, on a Capital Improvement Project (CIP) a representative from the design or engineering firm may be added or a department representative for a project for a particular building. A neighborhood resident may also be asked to sit on the artist selection panel for a community project.

H. Project Process – Yearly Acquisition Plan

The Yearly Acquisition Plan is an outline of the public art acquisition process, which coincides with the City's Fiscal Year, July 1-June 30.

PAC Yearly Acquisition Plan

April/May/June

May meeting of PAC – Due to the timing of the start of the Fiscal Year, all selected projects to be created have been decided upon by June.

Based on established budget, the following will take place:

PAC: create/design/mail announcement(s) regarding the specifically agreed upon site(s).

Send out RFQ's to artists through one of the three methods as outlined in the Manual under Artist Selection Panel and Procedures.

July/August

July meeting of PAC

Review all responses to the RFQ's by deadline.

PAC will decide on finalists (number to be determined). Additional members may be added to the selection panel for individual projects such as engineers, consulting architect, neighborhood representative, an artist, etc.

Artist(s) are selected and notified based on PAC policy and procedures. Models will be requested for October meeting.

September/October

September meeting of PAC

Final artists will be asked to submit models, detailed drawings, and necessary requested items as required on his/her application. (Due in October - deadlines and dates will correspond with timelines for each project).

Artist(s) must present models in person during a Q & A session.

November/December

November meeting of PAC

Models will be on display at City Hall for November and December for citizen input.

Public postings are made in media outlets to announce that citizens will have the opportunity to speak at a City Council meeting in **January** regarding each of the models. (Media Outlets Attachment B)

During this time of the PAC meeting, the annual maintenance schedule and inspections will be discussed and recommendations made by PAC.

Cataloging is brought up to date.

January /February

1st meeting of City Council: PAC-"Yearly Acquisition Plan" is budgeted based on projects selected by PAC to coincide with the City's budget planning process.

At City Council - PAC's final, accepted model(s) and public forum will be presented.

2nd meeting of City Council: Final selection/approval of model(s) by City Council is made during this time period.

Artist(s) notified of decision.

Contract(s) written and negotiated.

Contract(s) signed, funding released, project begins based on deadlines etc.

March

March meeting of PAC - new site projects announced, advertised.

PAC reviews any requested considerations.

PAC will vote on what projects will be selected from the Public Art Master Plan to be considered for completion.

I. Gifts, Donations and Loans of Artwork

Refer to the City of Milpitas Policy and Procedure for the Acceptance of Donated Artworks. (Attachment C)

J. Artwork Maintenance Program

Maintenance Guidelines

Definition of Maintenance: The upkeep and care of a work of art whether it is 2-D or 3-D, cleaning, repairing, and maintaining it in the condition in which it was received based on the guidelines listed here.

- When considering a work of art, it should be considered as “maintenance free” as possible—within reason i.e. unless an “act of God”, durable in most weather conditions, environment, etc.
- Maintenance for any public art purchased by “the city” is the responsibility of “the city” on a regularly established timetable (2x per year or as deemed necessary) schedule of inspection, reporting to the PAC on condition and recommendation OR when a work of art is in need of maintenance on a more frequent inspection, not only based on a maintenance schedule.
- Artist must specify, per the artist’s contract, how the work of art is to be maintained in the condition in which it was received (procedures) and furnish the appropriate cleaning methods and the names and contact information of professional local conservators who are qualified to maintain and repair specific works in the specific medium. The Artist must supply a digital document of this information in addition to digital photos of the artwork in its original condition.
- During the lifetime of the artist and to the extent practicable, the City shall notify the artist promptly in the event of the need for any major maintenance or restoration services. The City agrees to give the artist a reasonable opportunity either to perform such work or to supervise or consult in the performance of such work for reasonable compensation. If the artist chooses not to perform such work and refuses to approve repair and restoration by anyone other than themselves, the City may proceed with the repair of the work and the artist shall have the right to have their name removed from the work.
- Should work require major repairs, moving, etc. City staff in conjunction with the artist or if necessary an expert in the type of medium that the art piece falls under (i.e. painting, sculpture, bronze, stone, etc.) will be conducted for repair recommendations. Additional insurance may be taken out, should extensive work be required. Applicable insurance fees would be paid through the Public Art Fund.
- Adequate funds must be available in the Public Art Fund for the estimated, reasonable repairs of each work of art and will be estimated by consulting the artist and one professional conservator or expert in the particular medium.

- Should major repairs, unscheduled maintenance, maintenance of complex or very large items or extraordinary repair work or removal of the work be required due to safety factors, re-sitting, etc, funding shall be through the Public Art fund.
- Records and receipts of bills will be kept by "art administrator/city" and reported as to final outcome of the maintenance work to be approved by the PAC and the City Council.

K. Cataloging and Deaccessioning Artwork

Cataloging

A permanent photographic record or video and possible drawings as to location is to be made by or available to the appointed Public Art Committee's "Art Administrator". Acquired at the time of installation, this detailed information will insure that the work of art will be maintained in original condition. This record will be archived with all information regarding the work of art on an appropriate form.

Deaccession

This is determined when the artwork is deteriorating past the hopes of repair or retention. Artwork that is no longer acceptable for the site, unsafe or not up to the highest standards or quality of the collection can be considered for deaccession.

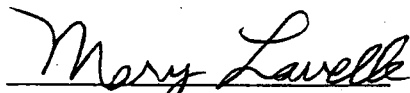
The City shall consult with the artist and obtain a recommendation from a professional art appraiser or art conservator who is familiar with the specific medium of the artwork. The Public Art Committee (PAC) must vote on any artwork being considered for deaccession with the majority prevailing, with final approval made by the City Council. Explanation of the decision to deaccess artwork should be published in a local newspaper and every effort possible within reason should be made to inform the artist or donor of Council's decision.

Selling of the artwork may be acceptable to the PAC. Exchanging it for another artwork, gifting it to a tax-exempt public institution, donating it to recycling or having it destroyed are other options. Destruction would only take place when the artwork is so severely damaged or deteriorated that it is deemed un-repairable. Any funds gained by sale must be returned to the Public Art Fund to purchase new art.

CERTIFICATION OF CITY CLERK
ORDINANCE NO. 271

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. **271** of the City of Milpitas, that said Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of said City Council held on the 2TH day of August 2005, and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 11TH day of August 2005.

A handwritten signature in cursive script that reads "Mary Lavelle". The signature is written in dark ink and is positioned above the printed name and title.

Mary Lavelle
City Clerk

REGULAR

NUMBER: 271

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS TO ADD CHAPTER 20 TO TITLE V OF THE MILPITAS MUNICIPAL CODE REQUIRING THE CITY OF MILPITAS CREATE A PUBLIC ART POLICY, ESTABLISH A PUBLIC ART COMMITTEE AND DEDICATE CAPITAL IMPROVEMENT PROJECT FUNDS TO THE ACQUISITION AND INSTALLATION OF PUBLIC ARTWORK TO FURTHER THE PUBLIC ART POLICY

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of July 5, 2005, upon motion by Councilmember Livengood and was adopted (second reading) by the City Council at its meeting of August 2, 2005, upon motion by Councilmember Livengood. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano Livengood, Polanski

NOES: (0) None

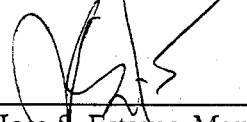
ABSENT: (0) None

ABSTAIN: (0) None

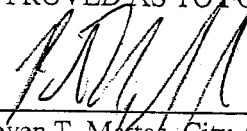
ATTEST:


Mary Lavelle, City Clerk

APPROVED:


Jose S. Esteves, Mayor

APPROVED AS TO FORM:


Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1.

The following Chapter shall be added to Title V of the Milpitas Municipal Code:

V-20-110: This Ordinance is being enacted as Title V, Chapter 20 of the Milpitas Municipal Code, titled, "The City of Milpitas Public Art Policy."

V-20-210: Purpose

The City of Milpitas accepts responsibility for expanding opportunities for its citizens to experience public art. An ordinance designed specifically for Milpitas will ensure a public art program that enhances the quality of life in the community.

V-20-310: Definition of Public Art

- a) "Public artwork" or "Public Art" means works of art that are meant to be enduring original artworks located on, affixed or applied to City property. They shall be of the highest quality and craftsmanship.
 - (1) Public Art shall be permanently sited and an integral part of the landscaping and/or architecture of a building considering the historical, geographical and social/cultural context of the site.
 - (2) Public Art shall be constructed to a scale that is proportional to the scale of the building or property it relates to or is sited upon.
 - (3) Public artwork may include sculpture, furnishings or fixtures, including but not limited to gates, walls, railings, streetlights or seating. Public Art may include water elements and walkways.
 - (4) Public artwork may include murals, photography and original works of graphic art, water features, neon, glass, mosaics, or any combination of forms of media, furnishings or fixtures permanently affixed to a building or its grounds, or a combination thereof, and may include architectural features of buildings.
 - (5) Public artwork shall be displayed in a manner that will enhance enjoyment by the general public.
 - (6) Public artwork may include artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or design team that includes a professional visual artist.
 - (7) Public Art may include reproductions of original works of art.
- b) Public artwork does not include the following:
 - (1) Art objects that are mass-produced of standard design such as playground equipment, benches or fountains;
 - (2) Decorative or functional elements or architectural details of a building designed solely by the building architect, unless such decorative and functional elements or architectural details are artist commissioned, and designed in collaboration with the building's architect;
 - (3) Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist;

(4) Directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original work of art or executed by artists in unique or limited editions.

V-20-410: PUBLIC ART COMMITTEE

- a) The City of Milpitas and the Milpitas Redevelopment Agency shall establish a Public Art Committee.
- b) Membership: The Committee shall be composed of the members of the Milpitas Arts Commission, three (3) persons recommended by the Milpitas Alliance for the Arts or its successor non-profit organization and one (1) member of the general public with an art background or specifically identifiable involvement in the arts. Interested persons must submit a City of Milpitas Community Service Application and proceed through the City Council's appointment process.
- c) The Public Art Committee's recommendations shall be advisory to the City Council and the Redevelopment Agency.
- d) The Committee's primary task shall be to review and recommend the selection and placement of Public Artwork.
- e) All members of the Public Art Committee shall serve a three-year term and shall follow the established City of Milpitas guidelines for participation on a City commission.

V-20-510: PUBLIC ART PROGRAM MASTER PLAN

- a) The City of Milpitas and the Milpitas Redevelopment Agency shall jointly develop with input from the public and upon the review, advice and recommendation of the Public Art Committee a Public Art Program Master Plan. The Public Art Program Master Plan shall establish and guide the development and implementation of a Milpitas Public Art Policy.
- b) The Public Art Program Master Plan shall:
 - Survey opportunities throughout the City and the Redevelopment Agency District for suitable sites and areas for the placement of Public Art;
 - Provide advice as to the potential priority for Public Art installations;
 - Advise as to potential Public Artwork aesthetic themes;
 - Advise as to the appropriate cataloguing and maintenance of Public Artwork.
- c) The Public Art Committee shall recommend to the City Council the adoption of program guidelines, policies and procedures to ensure consistent administration of the Public Art Program.

V-20-610: PUBLIC ART FUND

- a) The City of Milpitas shall dedicate 1.5% of eligible projects expenditures within the City's annual Capital Improvement Projects to the acquisition and installation of Public Art. The categories of eligible projects shall be limited to the following: New Building Projects, Large Infrastructure Projects, CIP projects limited to Community Improvements, Selected Parks and Streets Projects.

- 1) To establish a significant initial fund, the City shall provide an additional \$125,000 per year to the Public Art Fund for the first four years of the Public Art Program Master Plan, effective Fiscal Year 05/06.
 - 2) Three years from the effective date of this ordinance, the City Council shall review a minimum eligibility threshold of \$1 million per CIP project for the funding of public artwork for the application of the 1.5% formula.
 - 3) In conjunction with the submission of the annual budget, the City Manager shall annually notify the Public Art Committee of which projects are eligible construction projects within the approved categories for the 1.5% formula application, as well as, expenditures for the prior year subject to the 1.5% funding.
- b) The Public Art Fund shall be used to further the intent and purpose of this Article and in the administration of the Public Art Policy.
- 1) Permitted expenditures of the Public Art Fund shall include, but are not limited to:
 - A) The cost of public art and its installation, which includes the hiring of artists to develop and design concepts for the selection, acquisition, purchase, commissioning, placement, installation, exhibition and/or display of artwork;
 - B) Water works, landscaping, lighting, plaques and other objects, which may be an integral part of the public artwork;
 - C) Frames, mats, pedestals and other objects necessary for the presentation of the public artwork;
 - D) Walls, pools, landscaping and other architectural or landscape architectural elements necessary for the proper aesthetic and structural placement of the public artwork;
 - E) Maintenance and repair of public artwork funded through the Public Art Fund;
 - F) Administration of the City's Public Art Program, including staff support and related expenses, transportation of Public Art, site preparation, permit or certificate fees, business and legal costs directly associated with specific Public Art projects, master planning, installation and maintenance of Public Art, curatorial services, documentation, publicity and community education. Administrative costs shall also include staff time, direct costs and administrative overhead.
 - G) Hiring of consultants on an as needed basis to advise and assist the Public Art Committee in such areas as professional appraisal of Public Artwork; packing and shipping of public artwork; conservation and maintenance; collection documentation; installation design; presentation assistance; contract negotiation; artist selection; program monitoring; on-site monitoring of public artwork installation.
 - (H) Reproductions of original works of art.

- 2) Monies appropriated under this section shall not be used for the following:
- A) Art objects, which are mass-produced of standard design such as playground equipment or fountains.
 - B) Decorative or functional elements which are designed by the building architect as opposed to a commissioned artist.
 - C) Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.
- c) Nothing shall preclude gifts, grants, bequests, donations or other monies received by the City Council for art purposes from being placed in the Public Art Fund and used for the purposes expressed herein or for any other purpose as may be determined by the donor.
- d) Funds dedicated by the City or Redevelopment Agency shall be used to leverage additional private funds. The Public Art Committee shall aggressively seek to acquire additional funding for the Public Art Fund through donations, grants, sponsorships and all other appropriate fundraising means and opportunities. All additional funds received shall supplement Public Art Funds dedicated by the City and the Redevelopment Agency. The Public Art Committee shall prepare a semiannual report to the City Council updating the City Council on the Committee's fundraising efforts and goals.
- f) Contracts related to the Public Art Program shall be submitted to the City Council and/or Redevelopment Agency for approval.

V-20-710: PROGRAM EXPANSION

FY 2005/2006, the Public Art Committee shall evaluate and recommend to the City Council the potential extension of the public art program to the private sector.

V-20-810: SEVERABILITY

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(End of proposed Chapter)

Section 2. Effective Date and Posting.

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance to be posted in at least three (3) public places in the City of Milpitas in accordance with Section 36933 of the Government Code of the State of California.

(End of Ordinance)

Attachment B.

Media Outlets

- Milpitas Post
- San Jose Mercury News
- Ch.11 Community Calendar (Online)
- Community Affairs KTVU (Online)
- ArtDeadline.com
- City of Milpitas Reader Board
- METRO Magazine
- City of Milpitas Website
- Svcs.org
- Oakland Tribune
- San Francisco Chronicle
- Local news and radio stations

Art Donation Policy Procedure

- ❑ Donating Artist picks up an Art Donation packet at the Milpitas Community Center – includes Art Donation Application and Art Donation Policy and Procedures
- ❑ When Application is complete, artist will return Application and staff will review only to ensure the Application is filled out completely and signed
- ❑ The donation application will be agendized for a Public Art Committee meeting where the Committee will review the application and proposed donated artwork (through presentation of model or actual artwork)
- ❑ The Public Art Committee will either recommend to City Council to approve or deny the donated art
- ❑ Art Donation to go to City Council for review
- ❑ Should Artwork be approved by Council, the City and the Artist will enter into a written agreement for the donated artwork

City of Milpitas

Art Donation Application



Please submit applications to:

Milpitas Community Center

Attn: Public Art Committee

457 E. Calaveras Blvd.

Milpitas, CA 95035

For Questions please call 408-586-3210

I. Donor

Name: _____

Address: _____

Phone Number: () _____ Email: _____

Resume: Please attach Resume to application, no staples.

II. Art Work

Description of Art Work (include dimensions, mounting, placement requirements):

Estimated Value of Art Work: \$ _____

Describe necessary care and maintenance of proposed Art Work:

I _____ have reviewed the City of Milpitas' Policy and Procedure for the Acceptance of Donated Artworks.

Supplemental Information Attached, per the Policy and Procedure for the Acceptance of Donated Artworks

Donor Signature: _____ Date: _____

Received By: _____ Date: _____ (staff only)

Approved by City Council on 8/15/06

City of Milpitas

Policy and Procedure for the Acceptance of Donated Artworks

- I. Statement of Purpose: The purpose of this policy is to set forth standardized policies and procedures for the acceptance of donated artworks offered to the City.
- II. Statement of Policy: It is the policy of the City of Milpitas to accept donations of artwork displaying high aesthetic and technical competence to add to its collection.
- III. Review and Acceptance Procedure
 - a. Any person(s) wishing to donate artwork to the City of Milpitas must submit an Art Donation Application to the Milpitas Community Center. The application shall be accompanied by the following information:
 - i. Photo, plans, model, or maquette of proposed donation
 - ii. Technical description of the work
 - iii. Any special care, maintenance, mounting, or display requirements
 - iv. Resume or curriculum vitae of the artist
 - v. Statement of value of the proposed donation
 - b. City staff shall review the application and supporting documentation for the proposed donation. Upon finding that the application is complete, City staff shall place the application on the agenda of the Public Art Committee for consideration.
 - c. The Public Art Committee shall review the application for donation and shall make a recommendation to the City Council for acceptance or rejection of the donation. In considering the acceptance or rejection of donated artwork, the Public Art Committee shall consider the following areas:
 - i. Style and nature of the artwork
 - ii. Professional and technical competence with which the artwork was executed
 - iii. Overall quality and excellence of the artwork
 - iv. Overall appropriateness of the artwork in the context of the City's existing collection and available display locations
 - v. Installation and ongoing maintenance costs
 - vi. Durability of artwork
 - vii. Public safety concerns, if any

- d. The recommendation of the Public Art Committee shall be presented to the City Council at a regular meeting of the City Council. The City Council shall review the recommendation of the Public Art Committee and may, thereafter, accept or reject the donation. If the City Council votes to accept the donated artwork, the artist or the person(s) donating the artwork shall enter into a donation agreement. Upon execution of the donation agreement by the artist or the person(s) donating the artwork, title to the artwork shall pass to the City of Milpitas.
- e. Acceptance of a donated artwork shall not obligate the City under any circumstances to display the artwork in any public facility or on any public property.
- f. The City, in its sole discretion, may remove from its collection any donated artwork. In such event, the City shall comply with California Civil Code section 987, as amended, and shall make reasonable efforts to contact the artist or person(s) who donated the artwork and offer to return the artwork. If the artist or person(s) cannot be located after reasonable efforts, or the artist or persons(s) declines to accept the return of the artwork, the City may determine the disposition of the artwork.

UNAPPROVED MINUTES
PUBLIC ARTS COMMITTEE
CITY OF MILPITAS

Minutes: Meeting of the Public Art Committee (PAC)
Date of Meeting: Monday, July 24, 2006
Place of Meeting: Milpitas Community Center, 457 E. Calaveras Blvd., Conference Room 7/8

I. Call to Order The Chair called the Meeting to Order at 7:22 p.m.

II. Phantom Art Gallery Opening

The Committee hosted a reception for the Phantom Art Gallery Exhibit named "Stained Glass Paper" by Mrs. Darlene Kleinke.

III. Pledge of Allegiance Chairperson Foulk led the Committee in the Pledge of Allegiance

IV. Roll Call Committee Members Present: Ettinger, Foulk, Hays, Lawson, Ogle, Moss, Voellger, Butler

Commissioners Absent: Cherry, McGuire, Rabe and Alternate Tsuei

City Staff Present: Recreation Services Supervisor Kathleen Yurchak, Community Enrichment Coordinator, Renee Lorentzen

City Council Liaison Absent: Council Member Giordano

V. Seating of Alternates No Alternates were seated.

VI. Approval of Agenda MOTION to approve the Agenda of July 24, 2006.

M/S: Voellger/Ogle

Ayes: All

VII. Approval of Minutes Committee Member Lawson asked that the Minutes from May 22, 2006, be Amended as she did not abstain from the approval of the March 27, 2006 Minutes. She voted to approve the Minutes.

MOTION to approve the Minutes of January 23, 2006, as Amended.

M/S: Ettinger/Hays

Ayes: All

VIII. Citizens Forum

Amy Inn
813 Piper Ave.
Sunnyvale, CA 94087

Ms. Inn introduced herself to the Committee in representing Yeh Fei Peh, Celestial Horse Painter. She explained that Yeh Fei Peh is an Art Master of his splash ink style of painting. He is a Cultural Ambassador with his art being versatile as it represents both ancient and modern art. Ms. Inn stated that she had met with Supervisor Yurchak on the process in which PAC would be recruiting and utilizing artists for Public Art in the City of Milpitas and requested that Yeh Fei Peh be put on their Artist List for future consideration.

The Committee responded that his work was impressive and that they would definitely have him put on their Artist List for future public art projects.

IX. Announcements/Correspondence

Committee Member Ettinger announced a Fire Fighter Fundraiser on July 28, 2006, at Outback Restaurant in Milpitas for injured Fireman, Sean Simonson. Interested Committee Members should see her after the meeting for more information.

X. New Business

1. Master Plan Subcommittee Update - Subcommittee

Supervisor Yurchak referred the Committee to their packet stating that they are to review and approve the final draft of the Public Art Committee's Manual, as it will be sent to City Council for final approval.

Committee Member Lawson asked if the Committee wanted to indicate on page 4, which months the Committee meets as it currently indicates only "bi-monthly." Supervisor Yurchak stated that the Committee would have to change their by-laws, which would need separate approval City Council. Committee Member Moss stated that by not stating the actual months it protects the Committee if their meeting months change. Committee Member Lawson agreed.

Committee Member Moss asked if the Committee wanted to indicate on page 9, that not only individual artists, but also artist teams may be selected. Supervisor Yurchak responded that they could specify artist teams or single artists in the RFQ for specific projects. Committee Member Moss agreed.

MOTION to approve the final draft of the Public Art Committee Manual.

M/S: Hays/Ettinger Ayes: All

2. Implementation Timeline – Kathleen Yurchak

Supervisor Yurchak explained to the Committee that the Public Art Committee Implementation Timeline is planned for what ideally will be happening for their first project. The Timeline follows the process in the PAC Manual. Supervisor Yurchak reviewed the Timeline with the Committee, focusing on the Library Project, as the PAC's involvement in the art piece to be placed in front of the building will be a project with a very quick turnaround, needing to meet with the architects in September and RFQ's to be sent out in November.

Chairperson Foulk asked if the Committee would be able to discuss what they are looking for as far as the Library art goes before the RFQ goes out. Supervisor Yurchak answered yes, the Committee would be able to include that in the RFQ. Committee Member Voellger stated that during his work the Milpitas Alliance for the Arts, they used a professional recruiter, Sylvia White, who has lists of artists that the RFQ's can be sent to, generating a larger response. The recruiter is paid for their services.

Supervisor Yurchak said that the timeline gives the Committee a good starting and ending point for their first project. The timeline will change and adjust due to the needs of individual projects and progress.

MOTION to approve the Public Art Committee Implementation Timeline.

M/S: Hays/Moss Ayes: All

XI. New Business

1. Review Proposed Updates to the City of Milpitas Art Donation Policy – Kathleen Yurchak

Supervisor Yurchak referred the Committee to their agenda packet for the Art Donation Policy. This Policy was created a few years ago, under the Arts Commission. The current draft has the changes suggested by the Master Plan Subcommittee. The major changes tailor the Policy to the PAC. Committee Member Voellger asked if this policy would allow the Committee to deny donations. Supervisor Yurchak stated that yes, the donation and the donor's stipulations about where the art should be, etc., may not fall in line with the Master Plan or may not work with the Public Art Committee's goals. Chairperson Foulk said that the Committee can always reject a donation with recommendation to City Council.

MOTION to approve the draft Art Donation Policy.

M/S: Moss/Hays

Ayes: All

2. Review the Proposed Locations for Public Art for the Public Art Master Plan – Kathleen Yurchak

Supervisor Yurchak stated that the proposed list of locations for Public Art in Milpitas stems from a meeting with the Engineering and Parks Departments staff. In researching possible locations, it was asked whether because monies allocated to public art come from Redevelopment Agency (RDA) funds, can public art only be placed on the RDA areas. Staff is currently waiting for clarification from the Finance Director, Emma Karlen. The list consists of City properties and eligible RDA project sites. The PAC Master Plan Subcommittee reviewed this list and recommended the following sites for their 1-3 year plan.

1. Outer entry of Library
2. Screens/Panels of inside the Library
3. Pinewood Park
4. Directional Signage throughout the City

Committee Member Voellger asked if the new senior housing project and Terrace Gardens retirement community were potential locations. Committee Member Moss answered that she believed that the land Terrace Gardens is built on is City property. Supervisor Yurchak stated that she would have to check on what is City and what is Terrace Gardens.

Chairperson Foulk said that he would like to see a bronze statue of the Minute Man in front of City Hall and wanted to know why this project wasn't listed. Committee Member Voellger answered that the subcommittee picked Pinewood Park as the next project after the Library because it would be a smaller project after the larger Library project. There are neighbors of the Pinewood Park already interested and willing to assist in the project as well. He went on to say that the Committee does not yet know the costs of projects or how much the Library Project will cost and may have to do a smaller project with a smaller budget.

Supervisor Yurchak referred the Committee to the Funding 2006-07 chart and explained that the projects listed and their Project budget is what the 1.5% will be applied to, but reminded the Committee that the 1.5% formula is applied to monies spent, not the actual project budget. Their balance for the 2006-07 cycle will be accurately reflected by January of 2007. Chairperson Foulk stated that the Committee should wait until January 2007 to see what their budget is and then decide on their project list. He went on to say that to have the Minute Man

Unapproved Minutes

July 24, 2006

Page 3 of 4

as a piece of public art has always been his goal and that there is no piece of art in front of City Hall. The Committee reminded the Chair of the recently installed art "Cartwheels" is in front of City Hall. Committee Member Hays said that the idea of the Minute Man is okay but that the Committee may want to look at other possibilities for projects. Supervisor Yurchak said that should the Committee choose to put a Minute Man in front of City Hall they would need to move "Cartwheels". The cost to move, clean, re-install, etc., would come out of the PAC budget.

Committee Member Ettinger stated that the Library project is big and that it may take up the entire budget. Supervisor Yurchak reminded the Committee that the Committee is supposed to fundraise and solicit donations for Public Art. Committee Member Voellger suggested the Committee work with the Library and the Friends of Milpitas Library to raise funds. Chairperson Foulk asked that City Hall be placed on the Site List as #5.

MOTION to approve the Public Art Site List to include City Hall as site #5.
M/S: Ettinger/Moss Ayes: All

3. Review of List of Projects Eligible for the Art Policy Funding and Receive Art Fund Update – Kathleen Yurchak

Chairperson Foulk said that the list of funding doesn't provide a projected total for 2006-07. Supervisor Yurchak said that she could provide an update on their budget at their November meeting.

Note. Receipt. File.

XII. Staff/Commission Reports and Discussion Items

Supervisor Yurchak said that a list of upcoming Recreation Events is listed on the Agenda for the Committee's pleasure. Not listed is Rainbow Theatre's "Wizard of Oz", opening July 28th.

XIII. Future Agenda Items

None

XII. Adjournment

MOTION to adjourn the meeting at 8:18 p.m., to the next regularly scheduled meeting on September 25, 2006.

M/S: Voellger/Hays Ayes: All

Respectfully Submitted,

Renee Lorentzen
Community Enrichment Coordinator